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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 11 (g) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTION OF: CONSCIENTIOUS OBJECTION TO MILITARY SERVICE

Written statement* submitted by MINBYUN-Lawyers for a Democratic Society, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 January 2002]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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1. MINBYUN-Lawyers for a Democratic Society was established in 1988 to contribute the democratization of Korean society. Since then, MINBYUN has worked to improve human rights conditions in legal area, and defended the political prisoners who were particularly arrested in violation of the National Security Law and the Security Observation Law etc. MINBYUN has also endeavored to reform the undemocratic laws and systems in Korean society. After Korean government signed the UN human rights instruments such as International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights in 1990, MINBYUN has tried to watch Korean government to faithfully implement such Covenants and to perform its responsibility hereunder in domestic arena. In addition, MINBYUN has prepared and submitted alternative reports to the UN in regards to Korean government's reports which it has burden to file under the UN human rights instruments, so as Korean government's reports to be duly considered by the UN.

2. The UN Commission on Human Rights made a resolution in 1998 session (E/CN.4. Res/1998/77) that the conscientious objection to military service is one of the fundamental human rights based upon freedom of thought, conscience and religion. In the context of this 1998 resolution, the UN Commission on Human Rights decided in Resolution in 2000/34 that States should reexamine their current status of laws and customs on conscientious objection to military service, and requested to the Office of the UN High Commissioner of Human Rights to prepare a compilation and analysis of best practices concerning the recognition of conscientious objection to military service and provision of alternative service. Nature of conscientious objection to military service as basic right was already confirmed in 1993 by General Comment(General Comment 22 [48]) of the Human Rights Committee. At that Comment, the Human Rights Committee declared that conscientious objection to military service is from freedom of expression enshrined in Article 18 of International Covenant on Civil and Political Rights. These resolutions and comment of the UN Commission on Human Rights and the Human Rights Committee mean that conscientious objection to military service is in itself a basic human right, regardless of whether or not alternative service has been established by States. Therefore States should respect conscientious objection to military service as legitimate right, and should not punish conscientious objectors. States should also prepare an alternative service for conscientious objectors. As mentioned in the foregoing, Korea is a signatory country on International Covenant on Civil and Political Rights, and took part in the above 2000 resolution of the UN Commission on Human Rights, and thus Korean government has a responsibility to declare internationally and domestically that it respect conscientious objection as human right, and to provide an adequate alternative service for conscientious objectors.

3. The present situation on conscientious objection, however, in Korea is very far from expectation by the above UN resolutions and comment. Surprisingly, about 1,600 conscientious objectors, all of whom are Jehovah's Witnesses, are now in jail as criminals. For the period of 1991-2000, 3,736 conscientious objectors were arrested, sentenced to be guilty in violation of the Military Criminal Law, and imprisoned for three years. Even in 2000, 642 conscientious objectors were convicted. According to their religious faith and conscience, if young Jehovah's Witnesses begin military service, they deny soon exercising military training to use guns, and since there is no exceptional clause for conscientious objectors in the Military Service Law and the Military Criminal Law, their denials to exercise military training eventually lead to jail. In the past, the sentence to them, without any exception, was given for the imprisonment of three years, which is maximum term under the Military Criminal Law. But last year, some of them did not correspond to conscription

notice and thus instead of the Military Criminal Law, the Military Service Law applied to them. The trial was preceded before the civil court, not military court. In those cases, some judges ruled that the convicted persons should be imprisoned for one year and six months, which is shorter than three years term by military court. Even though these civil court decisions reflect sympathy with conscientious objectors to some degree, there is no actual change, because conscientious objection is not recognized as legally meaningful right and conscientious objectors do not choose any alternative service. At the present, conscientious objectors are treated as criminals in Korean society, and have serious problems in obtaining jobs. They are not eligible to be employed as a public officer, and also because of importance of military service career in business sector, it is nearly impossible for them to have proper jobs.

4. Jehovah's Witnesses who were sentenced to be imprisoned for three years in jail as conscientious objectors have been discriminated even in jail. Ordinary prisoners are able to apply a parole where their term in jail elapses one third, but in the case of Jehovah's Witnesses they are unable to enjoy a parole until elapse of twenty-seven months. Furthermore, their religious meeting is strictly prohibited on the ground that they denied to perform military service based upon their religious faith, even though the correction officer admits that conscientious objectors are best prisoners who faithfully observe the correction rule. These extreme discrimination will continue unless the present legal situation does not change. Korean government has responsibility to do a reform.

5. Disregard to conscientious objection in Korean society is related to the military dictatorship which began in 1961 coup de tat and continued to early 1990s. The military junta established conception most important duty of Korean people is to perform the military service for defense of country, because historically, Korea was invaded by foreign countries and after liberalization from Japan, Korea was divided into South and North. From this background, in Korea, military service has become unavoidable duty, unless people are not physically unable to do it or are employed in defense industry. Korean people have not dared to be a conscientious objector except Jehovah's Witnesses. However, military dictatorship has been overcome through civilian movement, and Korean society has been developing democracy in whole area. Therefore there is no ground that conscientious objection to military service is still to be unrecognizable from the viewpoint of defense of country and national security against North Korea.

6. Since last year, as the fact that many Jehovah's Witnesses are in jail as conscientious objectors is known to public, Korean people have become to concern about the issue of conscientious objection to military service. Civilian activists organized groups to support and help Jehovah's Witnesses in jail, and started to campaign conscientious objection to military service is to be respected as human right. The press also reported in detail the process of trials on conscientious objectors at courts. MINBYUN also took part in counseling conscientious objectors during trial. It is expected that solidarity of non-governmental organizations will be made in large scale for dealing with the issue of conscientious objection to military service.

7. In December 2001, Mr Taeyang Oh, a 26-year-old Buddhist and pacifist, determined that he would not report for duty of military service to conscription office according to his conscience. He is first conscientious objector outside the Jehovah's Witness. He says that Buddhism teaches that all living beings fear death. Harming or killing another person in war, or learning to use guns would violate his religious and moral beliefs. It is presumed that Mr Oh will soon be arrested in violation of the Military Service Law, and indicted by prosecutor like Jehovah's Witnesses. The

case of Mr Oh clearly shows that the issue of conscientious objection to military service is not any more limited to matter of only Jehovah's Witnesses. Sooner or later more people will determine that they are conscientious objectors to military service, as following an example of Mr Oh. Certainly, there will be more victims of conscientious objectors, if Korean government maintains present military service system.

8. In this connection, MINBYUN sincerely suggest that the UN Commission on Human Rights be well informed of exact situation on conscientious objection to military service in Korea, and that the UN Commission on Human Rights require to Korean government to report whether Korean government has reexamined legal system in relation to the issue of conscientious objection to military service so as to follow the UN resolutions and comment which have repeatedly recognized it as fundamental human right, and what Korean government will do in order to concretize such UN resolution and comment in near future. Apart from this, MINBYUN strongly hope that the UN Commission on Human Rights will recommend Korean government immediately stop from punishing the conscientious objectors as criminals and prepare a special measure to release conscientious objectors. Even before release, to the prisoners of conscientious objectors, reasonable parole should be admitted as soon as possible, and they should be able to have a religious meeting during imprisonment without any discrimination. Also MINBYUN expect that as one of measures for solving the issue of conscientious objection to military service, Korean government should newly legalize conscientious objection to military service as human right and introduce alternative system so that the conscientious objectors may not be punished as criminals. This change of policy will greatly and drastically contribute to democracy in Korean society, and will be in accordance with the policy of national defense in real meaning.

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COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Item 12 (a) of the provisional agenda

INTEGRATION OF THE HUMAN RIGHTS OF WOMEN AND THE GENDER PERSPECTIVE: VIOLENCE AGAINST WOMEN

Written statement* submitted by the International League for Human Rights, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[29 January 2002]

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*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE. * 2 0 0 2 0 1 0 7 6 7 *

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1. Five years ago, the Beijing Declaration and Platform for Action affirmed that "women's rights are human rights" (paragraph 14). Nonetheless, in many societies, the traditional association of women with family issues—which are often considered matters of private, rather than public or international, concern—can obscure certain widespread violations of women's human rights. Consequently, some forms of gender-based violence are more visible than others. The war in Afghanistan has exposed the systemic pattern of violence by the Taliban and other Afghan armed groups against Afghani women and girls, representing gross violations of all internationally recognized economic, social, cultural, civil and political rights.

2. Outside the context of more overt cultural discriminatory acts of violence against women, systematic patterns may be more difficult to discern. For this reason, we call the Commission's attention to the pattern of gender-based violence suffered by Tibetan women at the hands of Chinese government officials. This pattern includes forced or coerced sterilizations and abortions, as well as rape and other sexual torture, perpetrated against Tibetan women, primarily nuns, as punishment for non-violent political protest. Moreover, these acts take place within the context of a broad and ongoing pattern of human rights violations against the Tibetan people, whose foundational right to self-determination has been denied for the past fifty years, as recognized by General Assembly Resolution 1723 (XVI) (1961) (and the 1965 resolution 2106A(xx), which reaffirms the 1961 resolution). Women's rights violations in Tibet, including both reproductive rights violations and acts of sexual violence, reflect and in many ways originate in the failure of China's authorities to permit Tibetans to exercise their right to self-determination. Here, as in more overt cases like Afghanistan, patterns of sexual violence also evince a discriminatory motive.

3. Tibetan women face a systematic pattern of gender-based violence for non-violent expressions of their political opinions. According to "Hostile Elements," a recent report by the Tibet Information Network (TIN), about one out of every twenty Tibetan women imprisoned for non-violent political expression die as a result of violence, torture and other maltreatment. One recent example in 2001 involved a Tibetan nun who died in prison after nine years of maltreatment, lack of food and physical beatings. According to TIN, she was detained in 1992 by the Chinese government for participating in a peaceful protest in Lhasa. In June 1998, five Tibetan nuns detained for political protests in the late 1980s and early 1990s, reportedly committed suicide after suffering five weeks of severe maltreatment. TIN reported that security personnel, acting under official orders, had beat the nuns and subjected them to electric shocks with cattle prods: "Electric batons are utilised . . . to torture those under restraint. Sense organs, such as tongue and ears, body cavities and sexual areas, especially on females, have been routine points of application for electric shocks."

4. Beijing's most recent and disturbing effort to repress political expression involves the decimation of Serthar, the monastic institute and nunnery. Founded at Larung Gar in 1980 for the purpose of reviving Buddhist scholarship and meditation, Serthar housed the largest concentration of monks and nuns in Tibet, including between 6,000 and 7,000 monks and nuns, and an additional 1,000 Chinese students. In June 2001, high-level Chinese officials and armed police arrived in Larung Gar to carry out orders from Beijing to expel the majority of monks, nuns and students. According to TIN, with nearly a 1,000 Chinese reportedly forced to leave, the officials' next target was the cohesive community of Tibetan nuns. Some 3,000 nuns were expelled and are believed to have suffered subsequent mental breakdowns and even resorted to suicide. One source reported: "'There are many nuns from Serthar begging for food and money in Xining, Chengdu

and other areas. The main problem is that if they go home they cannot enter a nunnery and they have taken vows not to go back to lay life.'" Officials also have attempted to force all of the institute's inhabitants to sign documents containing three points: "a denunciation of the Dalai Lama, a commitment not to return, and a commitment to honour the guidelines and policy set by the Chinese authority." Failure to comply with the officials' orders was punishable by imprisonment or destruction of their homes. Authorities, however, have already destroyed more than 1,000 residential dwellings. Beijing's assault on Larung Gar has single handedly destroyed a rapidly diminishing essential Tibetan community.

5. Coerced abortions and sterilizations, as well as intrusive monitoring of women's reproductive cycles, constitute acts of discrimination that violate Articles 1 and 2 of the Convention on the Elimination of Discrimination Against Women (CEDAW). Article 16(e) of CEDAW specifically guarantees women the rights "to decide freely and responsibly on the number and spacing of their children and to have access to the . . . means to enable them to exercise these rights." At the Fourth World Conference on Women, participating governments, including China, recognized and reaffirmed "the right of all women to control all aspects of their health, in particular their own fertility" (Beijing Declaration and Platform of Action, para. 17). To this end, governments agreed to "ensure that all health services and workers conform to human rights and to ethical, professional and gender-sensitive standards in the delivery of women's health services aimed at ensuring responsible, voluntary and informed consent" and to "eliminate harmful, medically unnecessary or coercive medical interventions" (paras. 107(g)-(h)). China's 1995 White Paper, "The Progress of Human Rights in China," however, says only that the state respects a woman's "right" to "family planning" and her "freedom to choose *not* to give birth."

6. Tibetan women continue to suffer from medically unnecessary, coercive and often harmful sterilizations and forced abortions, ostensibly justified by China's nationwide population control policies. Ordinarily, the government adheres to a "one family – one child" policy as a means to control China's overpopulation problems. But this policy, at least in theory, applies solely to nationalities whose populations exceed ten million. Only about six million Tibetans live in Tibet. Moreover, Tibet has no population problem, and it never has. In fact, prior to 1950, about six million Tibetans lived in Tibet, a region roughly the size of western Europe. Even today, in the Tibet Autonomous Region (an area that excludes most of the Tibetan provinces of Amdo and Kham), fewer than 1.6 persons inhabit each square kilometre. Tibet remains one of the *least* populated regions in the world. There is no justification for applying "family planning" policies in Tibet, particularly while the government simultaneously transfers millions of Chinese settlers into Tibet.

7. Reports indicate that Tibetan women suffer forced sterilizations and late-term abortions at the hands of state healthcare workers. In a recent study, one Tibetan described how Chinese authorities visited his village to enforce the birth control policy: "All the other women in the village who had two children already were ordered to undergo sterilisation regardless of their age or physical condition. They were treated like animals, and given very poor operations. One woman . . . died seven days after she was sterilised." Some abortions among Tibetan women are forced and carried out during the second or third trimesters of the pregnancy. In its 1998 Report to the U.N. Committee on the Elimination of Discrimination Against Women, the International Committee of Lawyers for Tibet (ICLT) documented specific cases of late-term abortions. If the women refuse to submit to these procedures, however, their "unauthorized" children are denied education, medical care, ration cards and other state benefits that they would ordinarily receive.

Some reports indicate that Tibetan women have been brought to medical clinics on various pretexts unrelated to their pregnancies and then, without their knowledge or consent, given injections that induce abortions.

8. Mr. Chairman, Article 1 of the 1993 Declaration on the Elimination of Violence Against Women notes that "the term 'violence against women' means any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women," and Article 2(d) makes clear that this includes "physical, sexual and psychological violence perpetuated or condoned by the State." The evidence of gender-based violence in Tibet, including coerced abortions, forcible sterilizations, and acts of sexual torture, reveals a systematic pattern of violence against Tibetan women that is "perpetuated or condoned by the [Chinese] State." We therefore urge the Commission to adopt a resolution calling on the Chinese government to protect Tibetan women from this pattern of gender-based violence, to take prompt and effective measures to prevent the sexual torture and abuse of detained Tibetan women and to cease illegitimate policy and practice of forcibly sterilizing Tibetan women and aborting their children.